

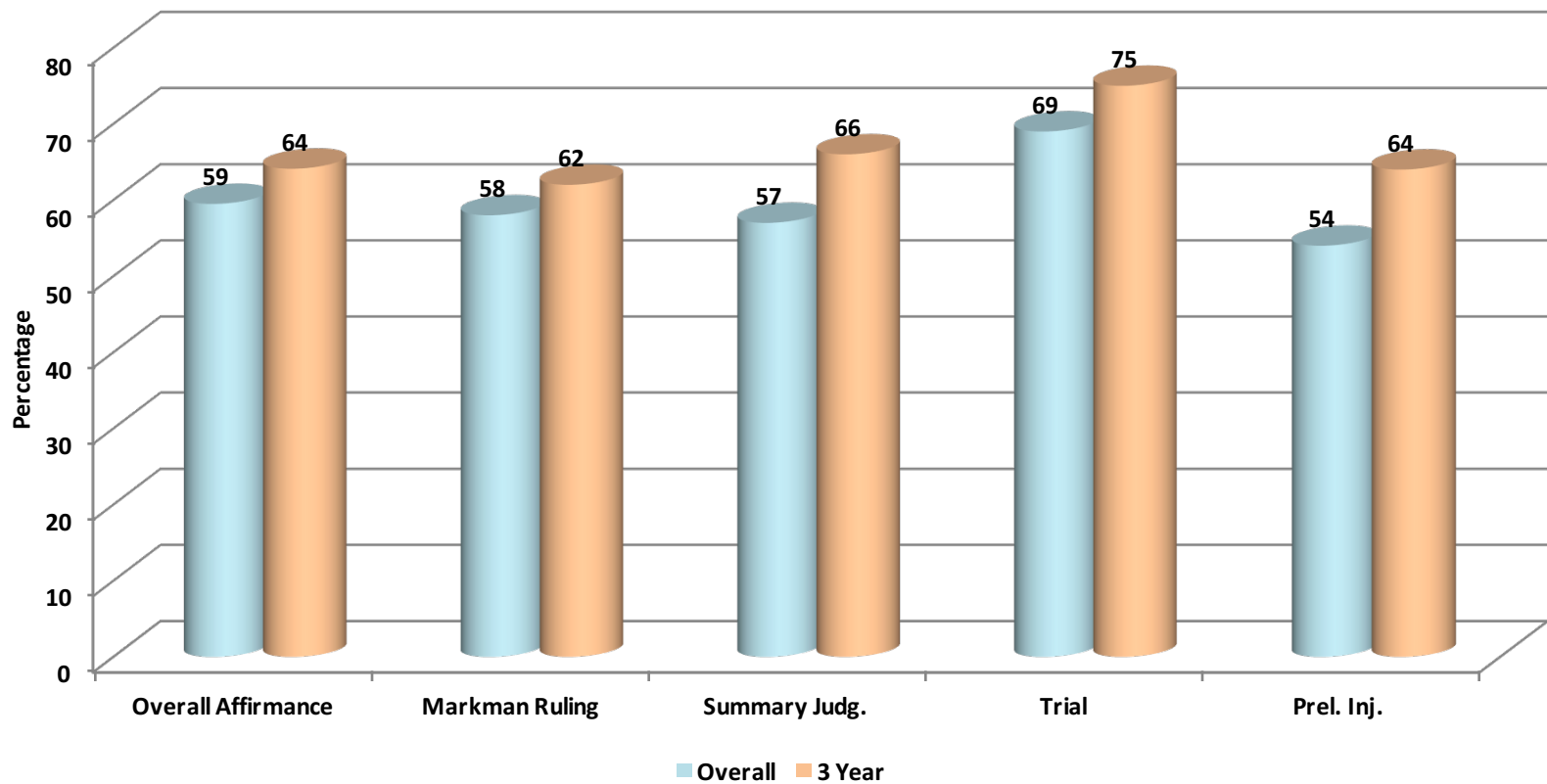
LegalMetric[®]

Claim Construction in the Federal Circuit

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Claim Construction on Appeals from Trial Most Likely to be Affirmed

Claim Construction Affirmance Rates, by Type of Ruling Below

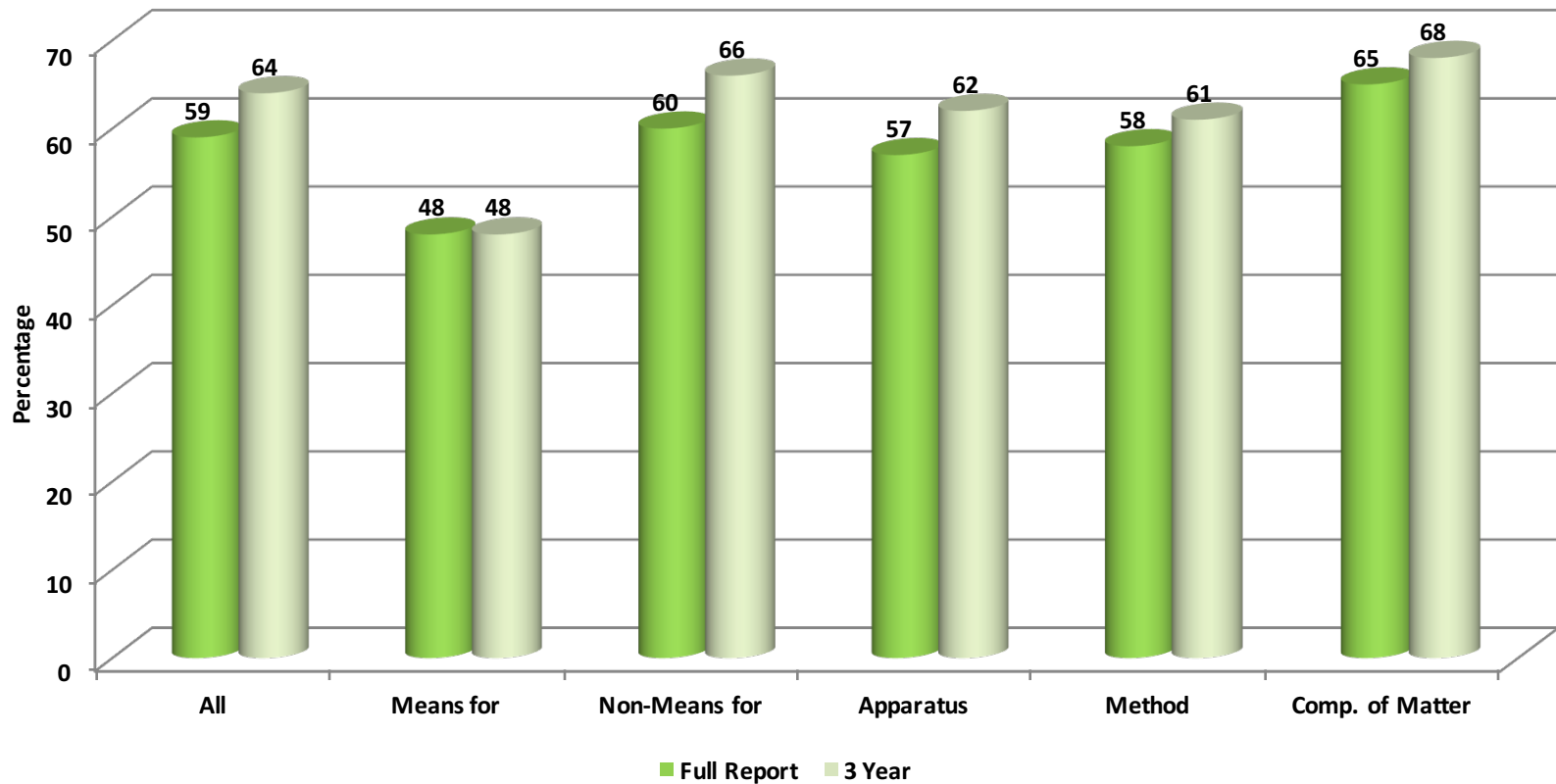


Claim Construction on Appeals from Trial Most Likely to be Affirmed

- Claim Construction affirmed 69% of the time when appeal is from trial (75% for the last three years)
- Appeals based on Markman Ruling or Summary Judgment are significantly lower (57-58% overall, 62-66% for the last three years)
- Appeals from Preliminary Injunction Claim Construction somewhat lower (54% overall, 64% last three years)

“Means for” Claim Construction Least Likely to be Affirmed

Claim Construction Affirmance Rates, by Type of Claim

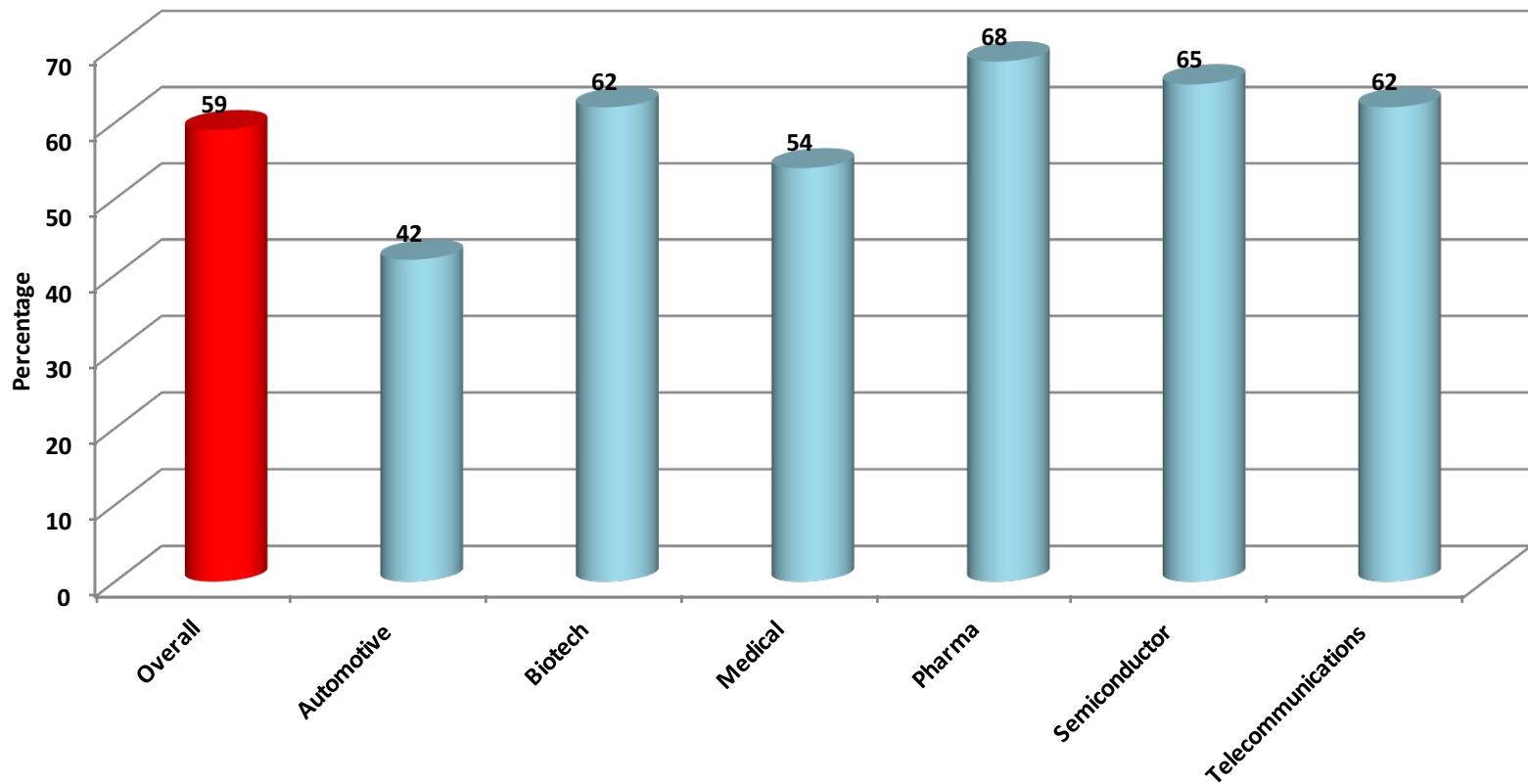


“Means for” Claim Construction Least Likely to be Affirmed

- “Means for” affirmance rate: 48%
- Overall affirmance rate for claim construction: 59% (64% for last three years)
- Highest affirmance rate: Composition of Matter claims (65%)
- Method claims and apparatus claims have similar affirmance rates (57-58% overall, 61-62% for last three years)

Claim Construction Affirmance Rate Highest for Pharma Patents

Claim Construction Affirmance Rates, by Technology



Claim Construction Affirmance Rate Highest for Pharma Patents

- The affirmance rate for claim construction rulings in Pharma cases was 68%.
- Lowest claim construction affirmance rate was in Automotive cases: 42%
- Telecommunications, Semiconductor, and Biotech claim construction affirmance rates were all relatively high (62-65%)

Time Frame and Source

- Figures are from LegalMetric's 2009 Federal Circuit Patent Report
- Federal Circuit decisions from July, 1995 to March, 2009 form the basis of the preceding charts.